

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA **FILED**
BRYSON CITY DIVISION **ASHEVILLE, N.C.**

AUG 24 2006

**U.S. DISTRICT COURT
W. DIST. OF N.C.**

UNITED STATES OF AMERICA
upon the relation and
for the use of the
TENNESSEE VALLEY AUTHORITY
Plaintiff

v.

Civil Action No. 2:05CV212

AN EASEMENT AND RIGHT-OF-WAY
OVER 2.91 ACRES OF LAND, MORE
OR LESS, IN CHEROKEE COUNTY,
NORTH CAROLINA

HIWASSEE RIVER PARTNERS, LLC
MADISON REALTY INVESTORS, LLC
UNITED COMMUNITY BANK
TODD DAVIS, trustee
HIWASSEE RIVER HOLDINGS, LLC
Defendants

JUDGMENT AND ORDER DISBURSING FUNDS

This action came on to be considered, and it appears to the Court based upon the representations of Defendant Hiwassee River Partners, LLC (HRP), which owned the land involved in this action as of the date the Complaint and Declaration of Taking were filed (August 19, 2005), and Defendant Madison Realty Investors, LLC (MRI), which on said date had an unrecorded contractual right to purchase said land on said date, by their approvals below, that: (a) after said date MRI assigned its right to purchase the land to Hiwassee River

Holdings, LLC, (b) pursuant to said assignment, HRP conveyed the land to Hiwassee River Holdings, LLC, by a deed dated September 27, 2005, and recorded October 5, 2005, in Book 1185, page 487, in the office of the Register of Deeds of Cherokee County, North Carolina, (c) the lien of Defendant United Community Bank has been discharged and cancelled of record as evidenced by the marginal entry dated October 5, 2005, on a deed of trust recorded in Book 1188, page 188, in said Register of Deeds' office, and (d) Defendant United Community Bank and Defendant Todd Davis, as trustee with respect to said lien, therefore, no longer have an interest in this action. It further appears to the Court that Hiwassee River Holdings, LLC, as evidenced by its signature below, agrees to be added as a Defendant in this action and waives further service of process, and that Plaintiff, HRP, MRI, and Hiwassee River Holdings, LLC have agreed to settle this action as provided below.

It is, therefore, Ordered and Adjudged that:

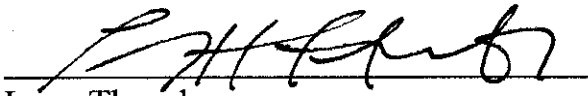
1. Hiwassee River Holdings, LLC, is hereby added as a Defendant in this action and the caption of this action is amended as shown above (thereby including it as a Defendant in the caption).
2. The sum of \$56,500 constitutes full compensation for the taking of the easement and right-of-way herein condemned, which sum has been deposited by Plaintiff in the registry of this Court in this action.

3. The vesting of title in the United States of America, free of all liens, claims, and encumbrances, as evidenced by the Declaration of Taking filed herein on August 19, 2005, is hereby fully and finally confirmed with respect to the easement and right-of-way described in Exhibit A attached hereto and made a part hereof (said Exhibit A being the same as in Exhibit A to the Declaration of Taking filed herein).

4. The Clerk of this Court is authorized and directed to draw a check on the funds on deposit in the registry of this Court in the amount of \$56,500 payable to Hiwassee River Holdings, LLC, and to mail said check to Kevin Coffey, c/o Hiwassee River Holdings, 1215 SE 2d Avenue, Suite 201, Fort Lauderdale, Florida 33316.

5. The Clerk of this Court shall furnish to Plaintiff a certified copy of this Judgment and Order Disbursing Funds (Judgment) which shall serve as a muniment of title.

This 24th day of August, 2006.



Lacy Thornburg
United States District Judge

We hereby approve and consent to the entry of this Judgment:

Edwin W. Small
Edwin W Small
Assistant General Counsel
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1401
Telephone 865-632-3021
Facsimile 865-632-6718
E-mail ewsmall@TVA.gov

Attorney for Plaintiff

Hiwassee River Partners, LLC
5410 U.S. Highway 19
Marble, North Carolina 28905

By: Ruby Joe Stiles
Title: Member Manager

Defendant

Madison Realty Investors, LLC
1215 SE 2d Avenue, Suite 201
Fort Lauderdale, Florida 33316

By: [Signature]

Title: Manager

Defendant

Hiwassee River Holdings, LLC
1215 SE 2d Avenue, Suite 201
Fort Lauderdale, Florida 33316

By: [Signature]

Title: Manager

003766433

TRACT NO. MCHR-5

A permanent easement and right-of-way, consisting of the perpetual right to enter and to erect, maintain, repair, rebuild, operate, and patrol lines of transmission line structures with wires and cables for electric power circuits and communication circuits, and all necessary appurtenances, in, on, over, and across said right-of-way, together with the right to clear said right-of-way and keep the same clear of all trees, brush, buildings, signboards, billboards, and fire hazards, to destroy or otherwise dispose of such trees and brush, and to remove, destroy, or otherwise dispose of any trees located beyond the limits of said right-of-way which in falling could come within five feet of any transmission line structure or conductor located thereon, the Plaintiff to remain liable for any direct physical damage to the land, annual crops, fences, and roads resulting directly from the operations of the construction and maintenance forces of Plaintiff in and about the erection and maintenance thereof, all upon, under, over, and across the following-described land:

TRACT NO. MCHR-5

A parcel of land located in the Murphy Township of Cherokee County, State of North Carolina, as shown on a map entitled "Murphy-Chatuge Transmission Line," drawing LW-1982, sheet 2, R.11, the portion of said map which shows said parcel of land being attached to the Declaration of Taking filed herein, the said parcel being more particularly described as follows:

Beginning at a point where the centerline of the transmission line location crosses the northwest property line of the land of Hiwassee River Partners, LLC, and the southeast property line of the land of Elizabeth Henn Bailey at survey station 134+83.10, said point being N. 47° 52' 10" E., 80 feet from a property corner common between the lands of Hiwassee River Partners, LLC, Elizabeth Henn Bailey, and the State of North Carolina (Highway 64 and S. R. 1558); thence leaving said point and with the said property line N. 47° 52' 10" E., 65.06 feet to a point, said point being in the north right-of-way line of the said location; thence leaving said point and with the said right-of-way line S. 81° 54' 52" E., 806.24 feet to a point; thence leaving said point and continuing with said right-of-way line S. 73° 41' 14" E., 412.04 feet to a point; thence leaving said point and with the east right-of-way line of the said location S. 1° 54' 13" E., 105.28 feet to a point, said point being in the south property line of the land of Hiwassee River Partners, LLC, and in the north road right-of-way line of the land of the State of North Carolina

TRACT NO. MCHR-5

(Highway 24 and S.R. 1558); thence leaving said point and with the said property line and said road right-of-way line N. $73^{\circ} 41' 14''$ W., 52.64 feet to a point, said point being on the centerline of the said location at survey station 147+52.30, said point being S. $73^{\circ} 41' 14''$ E., 246.41 feet from a concrete monument property corner common between the lands of Hiwassee River Partners, LLC, and the State of North Carolina (Highway 64 and S. R. 1558), said property corner being 50 feet right of survey station 144+69.66; thence leaving said point and continuing with said property line and said road right-of-way line N. $73^{\circ} 41' 14''$ W., 52.64 feet to a point, said point being in the south right-of-way line of the said location, said point being 50 feet right of survey station 146+63.43; thence leaving said point and with the said right-of-way line and said property line N. $73^{\circ} 41' 14''$ W., passing the said concrete monument property corner, 332.49 feet to a point; thence leaving said point and continuing with said right-of-way line N. $81^{\circ} 54' 52''$ W., 882.31 feet to a point, said point being in the northwest property line of the land of Hiwassee River Partners, LLC, and in the southeast property line of the land of Elizabeth Henn Bailey; thence leaving said point and with the said property line N. $47^{\circ} 52' 10''$ E., 65.07 feet to the point of beginning and containing 2.91 acres, more or less.

Furthermore, said permanent easement rights include the perpetual right to install, maintain, and replace guy wires and necessary appurtenances outside the right-of-way for the transmission line structures located at survey stations 143+27.35 and 146+99.61.

Recording Information: Record landowner as of the date of the filing of the Declaration of Taking — Hiwassee River Partners, LLC (Book 1016, page 526).

Parcel identification number: 550200505625000

003742493